

IN THE UNITED STATES DISTRICT COURT OF NEBRASKA

JANET BANKS,

Plaintiff(s)

vs.

NICK HUGHES; SECURITY AND PROTECTION SERVICES INC DBA LINCOLN GUARDS SECURITY COMPANY; WELLS FARGO BANK in their individual and official capacities,

Defendant(s)

Case No. 4:20CV3117

CIVIL RIGHT COMPLAINT WITH A JURY DEMAND UNDER 42 U.S.C. §1983

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA  
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**CIVIL RIGHTS COMPLAINT WITH A JURY DEMAND  
UNDER 42 U.S.C. §1983**

This is a 1983 action filed by Janet Banks (pro-se), a Lincoln, Nebraska resident, alleging violation of her constitutional rights and seeking money damages, declaratory judgment, and injunctive relief. The Plaintiff requests a trial by jury.

**JURISDICTION**

This is a civil rights action under 42 U.S.C. §1983. This court has jurisdiction under 28 U.S.C. §1343(a)(3). Plaintiff also invokes the pendant jurisdiction of this court.

**PARTIES**

Plaintiff, Janet Banks is an African American female who is a Lincoln, Nebraska resident. Plaintiff is a pro-se litigant in this matter.

Defendants, Nick Hughes is an Caucasian male who is an employee for Security Protection Services Inc. DBA/ Lincoln Guards Security Company in Lincoln Nebraska. He is sued in his individual and official capacities; Security Protection Services Inc. DBA/ Lincoln Guards Security

ty Company is a security firm that contracts with Wells Fargo Bank in Lincoln Nebraska; Wells Fargo Bank is a financial institution with a branch located in Lincoln Nebraska.

### **FACTS**

1. On March 26, 2019, Plaintiff went to Wells Fargo Bank located on 12<sup>th</sup> and O street to make a deposit.
2. Plaintiff made an attempt to park in the handi-cap zone, but was prevented by a vehicle parked in the handicap parking zone. This caused Plaintiff to circle the block and returned when the vehicle was gone.
3. When Plaintiff finally parked in the handicap zone in front of Wells Fargo Bank, Plaintiff waited in her vehicle to sought out the paperwork needed to conduct business inside of Wells Fargo Bank (defendant)
4. Defendant Nick Hughes, approached Plaintiffs vehicle and asked what was Plaintiff doing there and stated that Plaintiff has been parked for too long, although a sign is displayed showing a maxium time of 2 hours was allotted for parking in that area.
5. Plaintiff went inside the bank to complete a transaction and stopped by the Security guards desk and asked defendant Nick Hughes “just so I make sure I understand you, you were trying to make sure I was okay.”
6. Defendant Nick Hughes responded rudely saying: “ yes, that’s all I was doing.”
7. Plaintiff returned to her car after conducting business in Wells Fargo Bank to find two police officers by her vehicle whom asked for Plaintiff by name.
8. Defendant Nick Hughes called the police and claimed that he smelled marijuana coming from Plaintiffs vehicle. (See:EXHIBIT A; police report)
9. The police officers confirmed that they received a call from Wells Fargo Bank security

stating that a security guard smelled marijuana coming from Plaintiffs vehicle.

10. The officers to a look inside Plaintiffs vehicle and discovered no signs of any illegal drug activity.

11. Officer B. Keenan expressed to Plaintiff that “security guards sometimes get overzealous.” The officers then concluded their investigation and left the area.

12. At no time was Plaintiff engaging in drug activity. Plaintiff is currently a nursing student at the age of 64 and has a disability.

13. Plaintiff filed a complaint with the Nebraska Equal Opportunity Commission on the grounds of discrimination of disability and race. (See: EXHIBIT B)

14. On April 17, 2020, the Nebraska Equal Opportunity Commission made a determination to dismiss Plaintiffs claims stating that there was “no evidence that [Plaintiff] was denied any service or accommodation. It is a bank security guards’ job to watch for suspicious and unusual behavior or activity that might affect the bank.” “A security guard in the course of his duties may need to call the police for what they view as suspicious or criminal activity...”.... “The guard cannot be held liable if the guards honest suspicions are incorrect.” (See: NEB 1-18/19-4-3522-PA; Also see: EXHIBIT B)

15. At no time was Plaintiffs activities “unusual” or “suspicious.” Defendant(s) actions violated Plaintiffs Constitutional rights and state law. (See: Nebraska Revised Statute 28-907.; Fourteenth Amendment: Equal protection clause; Nebraska Revised Statute 25-839; Ninth Amendment; 42 U.S.C. §2000a. Prohibition against discrimination or segregation in places of public accommodation (a) Equal Access; Nebraska Revised Statute 20-502, Racial profiling prohibited.)

16. Without justification or provocation, defendant Nick Hughes notified authorities under

false pretenses in an effort to display his discriminatory conduct toward Plaintiff, in violation of constitutional rights and state law.

17. These actions resulted in Plaintiffs suffering a severe amount of stress and anxiety, which required treatment.

18. Defendant Wells Fargo Bank failed to take action in this matter when Plaintiff made a complaint to the Branch Manager about the incident.

19. At all times material to this cause of action, defendant Nick Hughes was an agent and employee of Security and Protection Services Inc dba Lincoln Guards Security Company., and was at such times acting within the full course, scope, and authority of Defendants Nick Hughes position with Defendant Security and Protection Services Inc dba Lincoln Guards Security Company., therefore imputing liability for his negligent act and resulting damages as outlined above under the principles of *Respondeat Superior* and the law of agency.

## **STATEMENT OF CLAIMS FOR RELIEF**

### **FIRST CAUSE OF ACTION**

20. The actions of defendant Nick Hughes as stated in the above paragraphs violated state law.

21. Defendant Nick Hughes violated state law *Nebraska Revised Statute 28-907* when he called the police and made false allegations against Plaintiff.

### **SECOND CAUSE OF ACTION**

22. The actions of defendant Nick Hughes as stated in the above paragraphs violated tort law .

23. Defendant Nick Hughes *Intentional[ly] Inflicted Emotional Distress* when he called

police and made false allegations against Plaintiff. Plaintiff was in fear of her life when approached by police officers for something she did not do.

### **THIRD CAUSE OF ACTION**

24. The actions of defendant Nick Hughes as stated in the above paragraphs violated state law Nebraska Revised Statute 25-839.

25. Defendant Nick Hughes created libel and slander when he reported to law enforcement that Plaintiff's vehicle smelled like marijuana. This false report made by defendant Nick Hughes was recorded in police files and are subject to public record.

### **FOURTH CAUSE OF ACTION**

26. The actions of defendant Nick Hughes as stated in the above paragraphs violated the Fourteenth Amendment Equal Protection clause.

27. Defendant Nick Hughes violated Plaintiff constitutional rights when he racially profiled Plaintiff and abused his authority by calling law enforcement to investigate Plaintiff under false pretenses.

### **FIFTH CAUSE OF ACTION**

28. The actions of defendant Nick Hughes as stated in the above paragraphs violated state law Nebraska Revised Statute 20-502. Racial profiling prohibited.

29. Defendant Nick Hughes violated state law Nebraska Revised Statute 20-502, even though defendant is not law enforcement, his job duties entails communication and cooperation with law enforcement. Defendant Nick Hughes racially profiled Plaintiff while utilizing public accommodations, then defendant caused Plaintiff to be questioned and unlawfully detained by law enforcement.

### **SIXTH CAUSE OF ACTION**

30. The actions of defendant Nick Hughes as stated in the above paragraphs violated the Ninth Amendment Constitutional Rights.

31. Defendant Nick Hughes violated Plaintiff Ninth Amendment when he invaded Plaintiffs privacy rights and the right to free enjoyment of public accommodations.

#### **SEVEN CAUSE OF ACTION**

32. The actions of defendant(s) Wells Fargo Bank as stated in the above paragraphs violated tort law on Negligent training

33. Defendant Wells Fargo Bank failed to train defendant(s) Security and Protection Services Inc dba Lincoln Guards Security Company and Nick Hughes on the policy of what is deemed “suspicious activity” to prevent him from falsely accusing a customer.

#### **EIGHTH CAUSE OF ACTION**

34. The actions of defendant(s) Security and Protection Services Inc dba Lincoln Guards Security Company as stated in the above paragraphs violated tort law of Negligent hiring.

35. Defendant(s) Security and Protection Services Inc dba Lincoln Guards Security Company failed to train defendant Nick Hughes about what is deemed “suspicious activity” how to approach customers and the consequences of making false reports. Defendant Nick Hughes was neither disciplined or reprimanded by Defendant Security and Protection Service Inc dba Lincoln Guards Security Company.

#### **RELIEF**

WHEREFORE, plaintiff requests this Honorable Court grant the following relief:

A. Issue a declaratory judgment that defendants violated the United States Constitution and state law when they (defendants):

1. failed to train and supervise employees

2. made false reports
3. intentionally inflicted emotional distress

B. Issue an injunction ordering that defendants and their agents

1. refrain from calling law enforcement until a Wells Fargo Bank employee has also investigated the situation.
2. host training programs with real life scenarios so employees and/or independent contractors can understand their job description and to prevent this from happening to someone else.

C. Grant compensatory damages in the following amount:

1. 1 million against defendants Security and Protection Services Inc dba Lincoln Guards Security Company and Nick Hughes in their official capacities for the Intentional Infliction of Emotional Distress
2. \$500,000 against defendant Nick Hughes in his individual capacity for the Intentional Infliction of Emotional Distress and making false reports.
3. \$500,000 against defendant Wells Fargo Bank in their official capacity for Negligent hiring.
4. Grant such other relief as it may appear plaintiff is entitled.

Dated this day of September 29, 2020

Respectfully submitted,

Janet Banks  
Janet Banks pro-se litigant

3945 South 47th St  
Lincoln, NE 68506